

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

LARRY GILBERT,) Case No. 1:08 CV 1867
)
Petitioner,) Judge Dan Aaron Polster
)
vs.) MEMORANDUM OF OPINION
) AND ORDER
STEWART HUDSON,)
)
Respondent.)

On August 31, 2009, Magistrate Judge James S. Gallas issued a Report and Recommendation of Magistrate Judge (“R&R”) (ECF No. 11). Therein, Magistrate Judge Gallas recommends that the Court deny the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (“§ 2254 Habeas Petition”) filed by Petitioner Larry Gilbert (ECF No. 1).

Under the relevant statute:

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C) (1988) (emphasis added). It is now October 5, 2009. Five weeks have elapsed since the R&R was issued, and Gilbert has filed neither objections nor a request for an extension of time to file objections.

The failure to timely file written objections to a Magistrate Judge's report and recommendation constitutes waiver of a *de novo* determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the R&R (**ECF No. 11**) and hereby **ADOPTS** it. Accordingly, the Court **DENIES** the § 2254 Habeas Petition (**ECF No. 1**).

IT IS SO ORDERED.

/s/ Dan Aaron Polster October 5, 2009
Dan Aaron Polster
United States District Judge